

Traffic Safety Facts

Laws

January 2006

Open Container Laws

Background

In 1998, as part of the Transportation Equity Act for the 21st Century Restoration Act (TEA-21 Restoration Act), a grant program was established to encourage States to adopt laws that prohibit the possession and consumption of alcoholic beverages in the passenger areas of motor vehicles (23 U.S.C. 154). Motor vehicle crashes are the leading cause of death for Americans from age 3 to 33, and motor vehicle crash injuries are a major health care problem in the United States. Alcohol-related crashes represent a substantial portion of motor vehicle crash fatalities and injuries.

Key Facts

- Alcohol involvement remains the leading factor in motor vehicle fatalities.
- Impaired driving is the most frequently committed violent crime in the United States.
- While only 7 percent of all police-reported motor vehicle crashes involve alcohol use, 39 percent of all fatal crashes involved the use of alcohol in 2004.
- A 2002 NHTSA study showed that States without open-container laws experienced significantly greater proportions of alcohol-involved fatal motor vehicle crashes than States with partially conforming or fully conforming laws.
- NHTSA's 1999 national survey on drinking and driving revealed that a substantial majority of the general public supports open-container laws, even in States without such laws.

appropriation if a State does not achieve compliance with the program requirements for enacting open-container laws. Transferred funds may be used only for alcohol-impaired driving countermeasures, enforcement of impaired-driving laws, or the State's hazard elimination program under Section 152.

To comply with the Section 154 program, a State's open container law must:

- prohibit both possession of any open alcoholic beverage container and consumption of any alcoholic beverage;
- cover the passenger area of any motor vehicle, including unlocked glove compartments and any other areas of the vehicle that are readily accessible to the driver or passengers while in their seats;
- apply to all open alcoholic beverage containers and all alcoholic beverages, including beer, wine, and spirits that contain one-half of one percent or more of alcohol by volume;
- apply to all motor vehicle occupants except for passengers of vehicles

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Section 154 of 23 U.S.C.

Section 154 authorizes the transfer of a portion of a State's Federal aid highway construction funds to the State's Section 402

designed, maintained, or used primarily for the transportation of people for compensation (such as buses, taxi cabs, and limousines) or the living quarters of motor homes;

- apply to all motor vehicles on a public highway or the right-of-way (i.e., on the shoulder) of a public highway; and
- provide for primary enforcement of the law.

To avoid the transfer of funds, a State must certify that its open-container law complies with the above elements, that the law is

in effect, and that the State is enforcing the law.

The transferred amount for States not in compliance is 1.5 percent of certain State Federal aid highway construction funds apportioned to the State for fiscal years 2001 and 2002 and 3 percent for fiscal year 2003 and later.

As of January 2006, 39 States and the District of Columbia comply with Section 154. These States are Alabama, Arizona, California, Colorado, Florida, Georgia, Hawaii, Idaho, Illinois, Iowa, Indiana, Kansas, Kentucky,

Maine, Maryland, Massachusetts, Michigan, Minnesota, Montana, Nebraska, Nevada, New Hampshire, New Jersey, New Mexico, New York, North Carolina, North Dakota, Ohio, Oklahoma, Oregon, Pennsylvania, Rhode Island, South Carolina, South Dakota, Texas, Utah, Vermont, Washington, and Wisconsin.

References

Open Container Laws and Alcohol Involved Crashes: Some Preliminary Data. National Highway Traffic Safety Administration, Washington, DC, DOT HS 809 426, April 2002.



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